

PLANNING COMMISSION

August 11, 2021

Action Minutes

WELCOME

ROLL CALL

PRESENT: Commissioners Bonilla, Casey, Caballero, Cantrell (left at 6:36 p.m.), Garcia, Lardinois, Montañez, Oliverio (arrived at 6:44 p.m.), Ornelas-Wise, Torrens, Young

ABSENT: None

1. CALL TO ORDER & ORDERS OF THE DAY

Meeting called to order at: 6:30 p.m.

Access the video, agenda, and related reports for this meeting by visiting the City's website at:
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission>

2. PUBLIC COMMENT

Public comments to the Planning Commission on non-agendized items. Please use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak or contact 408-535-3505 to request to speak. Each member of the public may address the Commission for up to two minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

No Comments

3. DEFERRALS AND REMOVALS FROM CALENDAR

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral or removal.

Staff will provide an update on the items for which deferral and removal is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring or removing these or any other items, please use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak or contact 408-535-3505 to request to speak.

No Items

4. CONSENT CALENDAR

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items, please use the 'raise hand' feature in Zoom or click *9 to raise a hand to speak or contact 408-535-3505 to request to speak.

ITEM 4.C WAS PULLED AND TAKEN OUT OF ORDER BY THE CHAIR. COMMISSIONERS YOUNG, TORRENS AND CANTRELL STATED THEIR CONFLICT OF INTEREST IN PARTICIPATING IN THE DECISION-MAKING ON RECOMMENDATION 3 OF ITEM 4.C. (THE APPLE DEVELOPMENT AGREEMENT COMPLAINT REVIEW) BECAUSE THEY OWN SHARES OF APPLE STOCK, SO THEY LEFT THE HEARING FOR ITEM 4.C. THE COMMISSION DID NOT HAVE A QUORUM TO HEAR ITEM 4.C (OLIVERIO, GARCIA, MONTANEZ ABSENT; CANTRELL, TORRENS, YOUNG ABSTAINED). GARCIA AND

MONTANEZ ARRIVED DURING THE DECISION-MAKING. ACTION: COMMISSIONER LARDINOIS MADE A MOTION TO DEFER ITEM 4.C TO THE AUGUST 25, 2021 PLANNING COMMISSION MEETING; SECONDED BY COMMISSIONER BONILLA. (8-0-1-3, OLIVERIO ABSENT; CANTRELL, TORRENS, YOUNG ABSTAINED). COMMISSIONER OLIVERIO ARRIVED AT 6:44 P.M.

COMMISSIONERS YOUNG AND TORRENS JOINED THE MEETING AFTER ITEM 4.C. WAS HEARD.

ACTION: COMMISSIONER CABALLERO MADE A MOTION TO APPROVE THE STAFF RECOMMENDATIONS FOR CONSENT CALENDAR ITEMS 4.A. AND 4.B.

COMMISSIONER CASEY SECONDED THE MOTION (8-0-1, CANTRELL ABSENT).

- a. Review and Approve Action Minutes from [July 28, 2021](#).
- b. [**CP21-013 \(Administrative Hearing\)**](#). Conditional Use Permit to allow an increase in the student enrollment of an existing school serving grades 5-8 (Perseverance Prep) from 60 students to 100 students and a Special Use Permit to exceed the noise criteria of the Zoning Ordinance by 4 decibels at the eastern property line on an approximately 0.75-gross acre site. (Grace Baptist Church of SJ, Owner). Council District 3. **CEQA:** Consider the Exemption under the provisions of Section 15301(a) for Existing Facilities pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (CEQA).

PROJECT MANAGER, ALEC ATIENZA

1. **CONSIDER THE EXEMPTION UNDER THE PROVISIONS OF SECTION 15301(A) FOR EXISTING FACILITIES PURSUANT TO THE STATE GUIDELINES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**
 2. **ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW AN INCREASE IN ENROLLMENT AT AN EXISTING SCHOOL SERVING GRADES 5-8 FROM 60 TO 100 STUDENTS AND A SPECIAL USE PERMIT TO EXCEED THE NOISE CRITERIA OF THE ZONING ORDINANCE BY 4 DECIBELS AT THE EASTERN PROPERTY LINE ON AN APPROXIMATELY 0.75-GROSS ACRE SITE.**
- c. [**Annual Compliance Review of Development Agreements \(Administrative Hearing\)**](#). This is an annual compliance review hearing of active development agreements pursuant to California Government Code Section 65865.1 and San José Municipal Code Section 18.02.300. The purpose of the hearing is for the Planning Commission to determine if the developers or their successor-in-interests are in compliance with the terms and conditions of the development agreements with the City of San José.
 - **DA10-001.** Cisco Technology Development Agreement, entered into by the City and Cisco Technology, Inc. in 2010, which allows the development of 150,000-2.5 million square feet of office/R&D space over the term of the agreement, for the 137-acre site. (Cisco Technology Inc., Owner). Council District 4.
 - **DA14-003, DA16-001, and DA17-001.** Jackson-Taylor Partners Development Agreement, entered into by the City and Jackson-Taylor Partners, LLC in December 2014, and assigned by Jackson-Taylor Partners, LLC to and assumed by Shea Properties in 2017, providing for the

development of 435-600 dwelling units, a site for a performance center and a public park on the 5.25-acre site. (City of San José and Shea Properties, Owners). Council District 2.

- **DA15-002.** Apple, Inc. Development Agreement, entered into by the City and Apple, Inc. in March 2016, which allows the development of up to 4,151,530 square feet of office/R&D and manufacturing development on the 86-acre site. (Apple Inc., Owner). Council District 2.
- **DA-eBay.** eBay Development Agreement entered into by the City and eBay, Inc. in 2003, which allows the development of two million square feet of research and development office space on a 48-acre site. (eBay Inc., Owner). Council District 4.
- **DA-Hitachi.** Hitachi Global Storage Technologies (HGST) /Western Digital Development Agreement entered into by the City and HGST in 2005, which bound the developer to construct several public improvements to support up to 3.6 million square feet of industrial development, 460,000 square feet of commercial development, and 2,930 residential units on a 332-acre site. (Hitachi Global Storage Techs Inc., Owner). Council District 2.
- **DA-Novellus and DA11-001.** Novellus Development Agreement entered into by the City and Novellus Systems Inc. in 2007, and subsequently with Vista Montana Park Homes LLC and Equity Tasman Apartments LLC, through the first amendment to the agreement in November 2009, which bound the developers to construct two public parks and allows up to 870,000 square feet of industrial space and 998 multi-family residential units on the 46-acre site. (Novellus Systems Inc., Owner). Council District 4.

CEQA: The annual Development Agreement compliance review involves no new physical development or new uses on the property, and is therefore not considered a “Project” under the California Environmental Quality Act.

PROJECT MANAGER, PATRICK KELLY

ACTION: DEFERRED TO THE AUGUST 25, 2021 PLANNING COMMISSION MEETING (SEE DETAIL ABOVE)

1. **ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND CISCO TECHNOLOGY, INC. DATED SEPTEMBER 2, 2010 (FILE NO. DA10-001) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE UP TO 2.5 MILLION-SQUARE FOOT RESEARCH AND DEVELOPMENT OFFICE PROJECT ON THE 137-GROSS ACRE SITE LOCATED ON THE NORTH AND SOUTH SIDES OF EAST TASMAN DRIVE, EAST OF ZANKER ROAD.**
2. **ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND JACKSON-TAYLOR PARTNERS, LLC ENTERED INTO DECEMBER 16, 2014 (FILE NO. DA14-003, AND AMENDMENTS DATED JANUARY 1, 2016 AND NOVEMBER 17, 2017 (FILE NOS DA16-001 AND DA17-001, RESPECTIVELY), AND ASSIGNED BY JACKSON-TAYLOR PARTNERS, LLC TO AND ASSUMED BY SHEA PROPERTIES IN 2017, FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE PROJECT WITH 435 TO 600 DWELLING UNITS, 16,000 TO 25,000 SQUARE FEET OF RETAIL, A SITE FOR A PERFORMANCE CENTER FOR SAN JOSÉ TAIKO AND CENTER FOR THE CREATIVE ARTS (CCA), AND A PUBLIC PARK LOCATED ON AT THE SOUTHEAST CORNER OF EAST TAYLOR STREET AND NORTH 6TH STREET.**

- 3. ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND APPLE, INC. DATED MARCH 4, 2016 (FILE NO. DA15-002) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR A 4,151,530-SQUARE FOOT RESEARCH AND DEVELOPMENT OFFICE AND MANUFACTURING PROJECT ON THE 86-GROSS ACRE SITE LOCATED ON THE EAST AND WEST SIDES OF ORCHARD PARKWAY, APPROXIMATELY ONE QUARTER MILE SOUTH OF TRIMBLE ROAD.**
- 4. ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND EBAY, INC. DATED JANUARY 16, 2004 (FILE NO. DA-EBAY) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE TWO MILLION-SQUARE FOOT RESEARCH AND DEVELOPMENT OFFICE PROJECT ON THE 48-GROSS ACRE SITE LOCATED ON THE WEST SIDE OF NORTH FIRST STREET, BETWEEN GUADALUPE PARKWAY AND KARINA COURT.**
- 5. ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPER IS IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND HITACHI GLOBAL STORAGE TECHNOLOGIES (HGST) DATED SEPTEMBER 23, 2005 (FILE NO. DA-HITACHI) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE PROJECT INCLUDING UP TO 3.6 MILLION SQUARE FEET OF INDUSTRIAL DEVELOPMENT, 460,000 SQUARE FEET OF COMMERCIAL RETAIL DEVELOPMENT, AND 2,930 RESIDENTIAL UNITS ON THE 332-GROSS ACRE SITE BOUNDED BY MONTEREY ROAD TO THE NORTH, HIGHWAY 85 TO THE SOUTH, MANASSAS ROAD TO THE EAST AND COTTLE ROAD TO THE WEST.**
- 6. ADOPT A RESOLUTION PURSUANT TO SAN JOSÉ MUNICIPAL CODE SECTION 18.02.300.E CERTIFYING THE DEVELOPERS ARE IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND NOVELLUS SYSTEMS, INC., DATED DECEMBER 20, 2007 (FILE NO. DA-NOVELLUS), AND VISTA MONTANA PARK HOMES LLC AND EQUITY TASMAN APARTMENTS LLC THROUGH A SUBSEQUENT AMENDMENT DATED NOVEMBER 3, 2009, AND SECOND AMENDMENT DATED AUGUST 2, 2011 INCORPORATING PLANNED DEVELOPMENT ZONINGS PDC11-006 AND PDC11-007 (FILE NO. DA11-001) FOR THE ANNUAL COMPLIANCE REVIEW PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2021, FOR THE PROJECT OF UP TO 870,000 SQUARE FEET OF INDUSTRIAL SPACE AND 998 MULTI-FAMILY RESIDENTIAL UNITS ON THE 46-GROSS ACRE SITE LOCATED AT THE WEST CORNER OF NORTH FIRST STREET AND HEADQUARTERS DRIVE; THE SOUTH AND EAST CORNERS OF NORTH FIRST STREET AND VISTA MONTANA; AND THE NORTHWEST CORNER OF VISTA MONTANA AND WEST TASMAN DRIVE.**

5. PUBLIC HEARING

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. [H19-053 & T20-004](#). A Site Development Permit to allow the demolition of three residential units, a water tank building, three commercial buildings, removal of seven trees (two ordinance-size and five non-ordinance-size), and two sheds for the construction of a building with up to 175-room hotel and a Vesting Tentative Map to merge four parcels into one parcel on an approximately 0.60-gross acre site located on the Northeast Corner of West San Carlos Street and Josefa Street Intersection (495 West San Carlos Street). (UC Keystone Owner LLC, Owner). Council District 3. **CEQA:** Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Environmental Impact Report (EIR) for the Marriott Townplace Suites.

PROJECT MANAGER, JAMES HAN

ACTION: COMMISSIONER OLIVERIO MADE A MOTION TO RECOMMEND THAT THE CITY COUNCIL TAKE THE FOLLOWING ACTIONS:

- 1. ADOPT A RESOLUTION CERTIFYING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) TO THE DOWNTOWN STRATEGY 2040 ENVIRONMENTAL IMPACT REPORT FOR THE MARRIOTT TOWNPLACE SUITES ON WEST SAN CARLOS STREET AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES, ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A RELATED MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**
- 2. ADOPT A RESOLUTION APPROVING A VESTING TENTATIVE MAP TO MERGE FOUR PARCELS INTO ONE PARCEL ON AN APPROXIMATELY 0.60-GROSS ACRE SITE.**
- 3. ADOPT A RESOLUTION APPROVING A SITE DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF THREE RESIDENTIAL UNITS, A WATER TANK BUILDING, THREE COMMERCIAL BUILDINGS, REMOVAL OF SEVEN TREES (TWO ORDINANCE-SIZE AND FIVE NON-ORDINANCE-SIZE), AND TWO SHEDS FOR THE CONSTRUCTION OF A BUILDING WITH AN UP TO 175-ROOM HOTEL ON AN APPROXIMATELY 0.60-GROSS ACRE SITE.**

COMMISSIONER CASEY SECONDED THE MOTION (10-0-1, CANTRELL ABSENT).

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

No Items

7. GOOD AND WELFARE

a. Report from City Council

The Commission secretary reported on City Council actions taken on August 10, 2021.

b. Subcommittee Formation, Reports, and Outstanding Business

No items

c. Commission Calendar and Study Sessions

Commissioner Caballero requested that the calendar meeting location be updated from Council Chambers/in-person meetings to TBD because of the uncertainty with County/State requirements and COVID protocol.

d. The Public Record

Commissioner Bonilla acknowledged Commissioner Lardinois Birthday.

8. ADJOURNMENT

Meeting adjourned at 7:27 p.m.